

From: robert
To: Microsoft ATR
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Subject: settlement comments

I find the proposed Microsoft (MS) woefully inadequate and should be discarded.

First, there are absolutely no penalties for past illegal behavior! Make no mistake that MS did profit from past misdeeds. Under the proposed settlement, they get to keep their illegal profits. MS is hardly a first time offender, and has shown absolutely no remorse. This, in and of itself, provides a powerful incentive for both MS and other companies to break the law.

Second, the conduct only remedies would be largely ineffective. Microsoft has shown in the past it's ability to get around any conduct probations. Look at the Windows 95 decree. They just released a "new" operating system called Windows 98, and went right around the decree.

Third, the technical committee that is supposed to oversee the conduct of MS is a joke. MS, who is a lawbreaker (the District Court was unanimous in this), gets to select one member out of three, who in turn gets to have a voice in selecting the third member. The phrase "fox guarding the hen house" comes to mind. Further, the committee is gagged, and sworn to secrecy, denying the public any information on Microsoft's compliance with the agreement, and will be paid by Microsoft, working inside Microsoft's headquarters. This will render the committee completely ineffective and MS will continue breaking the law.

Fourth, there is little to no protection for the open source and free software movements. Right now, they are the only potential competitors to MS. Yet, under J.1 and J.2 of the proposed final order, Microsoft can withhold technical information from third parties on the grounds that MS does not certify the "authenticity and viability of its business."

MS has repeatedly described the licensing system for Linux (the most widely used open source/free software operating system, but not the only one) as a "cancer" that threatens the demise of both the intellectual property rights system and the future of research and development. It is apparent that MS will use J.1 and J.2 to deny interoperability information to the movement in an attempt to kill them off or marginalize them and maintain its illegal monopoly.

Only by forcing MS to release FREELY the information early in the development cycle can competition, all competition not just open source, be given a chance. Releasing the information at the same time as MS releases a new product will still give MS a big advantage. It takes time to develop new file filters and other interoperability components, and MS would be given a

large headstart.

Please consider these and other criticisms of the settlement proposal, and avoid allowing the illegal activities to continue. It is far better to send this unchastened monopoly juggernaut a sterner message than the less than a slap on wrist message the proposed settlement sends.

Robert Spotswood